



House of Representatives

General Assembly

File No. 513

February Session, 2012

House Bill No. 5511

House of Representatives, April 18, 2012

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

***AN ACT CONCERNING THE BUDGET, SPECIAL ASSESSMENT AND
ASSIGNMENT OF FUTURE INCOME APPROVAL PROCESS IN
COMMON INTEREST OWNERSHIP COMMUNITIES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 47-261e of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2012*):

3 (a) The executive board, at least annually, shall adopt a proposed
4 budget for the common interest community for consideration by the
5 unit owners. Not later than thirty days after the adoption of a
6 proposed budget, the executive board shall provide to all unit owners
7 a summary of the budget, including a statement of the amount of any
8 reserves, and a statement of the basis on which such reserves are
9 calculated and funded. Simultaneously, the board shall set a date not
10 less than ten days or more than sixty days after providing the
11 summary for either a meeting of the unit owners or a vote by ballot
12 without a meeting to consider approval of the budget. If, at that
13 meeting or in the vote by ballot, a majority of [all] the unit owners

14 voting or any larger number specified in the declaration votes to reject
15 the budget, the budget shall be rejected. If, at that meeting or in the
16 vote by ballot, a majority of [all] the unit owners voting or any larger
17 number specified in the declaration does not vote to reject the budget,
18 the budget shall be approved. The absence of a quorum at such
19 meeting or participating in the vote by ballot shall not affect rejection
20 or approval of the budget. If a proposed budget is rejected, the budget
21 last approved by the unit owners continues until unit owners approve
22 a subsequent budget.

23 (b) The executive board, at any time, may propose a special
24 assessment. Not later than thirty days after adoption of a proposed
25 special assessment, the executive board shall provide to all unit owners
26 a summary of the proposed special assessment. Unless the declaration
27 or bylaws otherwise provide, if such special assessment, together with
28 all other special and emergency assessments proposed by the executive
29 board in the same calendar year, do not exceed fifteen per cent of the
30 association's last adopted periodic budget for that calendar year, the
31 special assessment is effective without approval of the unit owners.
32 Otherwise, the board shall set a date not less than ten days or more
33 than sixty days after providing the summary for either a meeting of the
34 unit owners or a vote by ballot without a meeting to consider approval
35 of the special assessment. If, at such meeting or in the balloting, a
36 majority of [all] the unit owners voting or any larger number specified
37 in the declaration votes to reject the special assessment, the special
38 assessment shall be rejected. If, at such meeting or in the balloting, a
39 majority of [all] the unit owners voting or any larger number specified
40 in the declaration does not vote to reject the special assessment, the
41 special assessment shall be approved. The absence of a quorum at such
42 meeting or participating in the vote by ballot shall not affect the
43 rejection or approval of the special assessment.

44 (c) If the executive board determines by a two-thirds vote that a
45 special assessment is necessary to respond to an emergency: (1) The
46 special assessment becomes effective immediately in accordance with
47 the terms of the vote; (2) notice of the emergency assessment must be

48 provided promptly to all unit owners; and (3) the executive board may
49 spend the funds paid on account of the emergency assessment only for
50 the purposes described in the vote.

51 (d) Notwithstanding any provision of the declaration or bylaws to
52 the contrary, at least fourteen days prior to entering into any loan
53 agreement on behalf of the association, the executive board shall (1)
54 disclose in a record to all unit owners the amount and terms of the loan
55 and the estimated effect of such loan on any common expense
56 assessment, and (2) afford the unit owners a reasonable opportunity to
57 submit comments in a record to the executive board with respect to
58 such loan.

59 (e) Unless prohibited or otherwise limited in the declaration, if the
60 executive board proposes to enter into a loan agreement on behalf of
61 the association and to assign its right to future income as security for
62 such loan pursuant to subdivision (14) of subsection (a) of section 47-
63 244, then, in addition to satisfying the requirements of subsection (d) of
64 this section, [unit owners of units to which at least a majority of the
65 votes in the association are allocated, or any larger percentage or
66 fraction stated in the declaration, must vote in favor of or agree to such
67 assignment] the board shall set a date not less than ten days or more
68 than sixty days after satisfying the requirements of subsection (d) of
69 this section, for either a meeting of the unit owners or a vote by ballot
70 without a meeting to consider approval of such assignment. If, at such
71 meeting or in the balloting, a majority of all unit owners or any larger
72 number specified in the declaration votes to reject the assignment, the
73 assignment shall be rejected. If, at such meeting or in the balloting, a
74 majority of all unit owners or any larger number specified in the
75 declaration does not vote to reject the assignment, the assignment shall
76 be approved. The absence of a quorum at such meeting or
77 participating in the vote by ballot shall not affect the rejection or
78 approval of the assignment.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2012</i>	47-261e
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JUD *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill makes certain changes to common interest communities and does not result in a fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**HB 5511*****AN ACT CONCERNING THE BUDGET, SPECIAL ASSESSMENT AND ASSIGNMENT OF FUTURE INCOME APPROVAL PROCESS IN COMMON INTEREST OWNERSHIP COMMUNITIES.*****SUMMARY:**

This bill changes requirements under the Common Interest Ownership Act (CIOA) for approval of annual budgets and special assessments. It provides that they are approved unless a majority of those owners participating in the voting, rather than a majority of all unit owners, vote to reject them. By law, unchanged by the bill, (1) the association's declaration can provide for a larger number of unit owners needed to reject a budget or assessment and (2) unit owner approval is not required for special assessments that are (a) small relative to the association's budget (unless the declaration or bylaws provide otherwise) or (b) needed in an emergency.

The bill also changes the approval requirement under CIOA for assignments of the right to future income as security for loan agreements. It provides that the assignment is approved unless a majority of unit owners vote against it, rather than approved only if a majority vote for it (although the declaration can specify higher numbers).

The bill makes other changes to the required procedures and timelines for votes on such assignments.

EFFECTIVE DATE: October 1, 2012

LOAN AGREEMENTS AND ASSIGNMENT OF RIGHT TO FUTURE INCOME

Current law requires unit owner approval of a common interest community executive board's assignment of the right to future income

as security for a loan agreement, but does not specify when the vote must be held. The bill requires the board to schedule a unit owner's meeting or a vote by ballot without a meeting to consider approval of such an assignment. Under the bill, the meeting or vote must be held at least 10 but no more than 60 days after the board satisfies other requirements in existing law related to loan agreements (i.e., at least 14 days before entering into a loan agreement on the association's behalf, the board must (1) disclose to unit owners the loan's amount, terms, and estimated impact on any common expenses assessment and (2) give them a reasonable opportunity to submit comments on the loan).

Under current law, if the executive board proposes to enter into such a loan agreement and assignment, then owners of units to which at least a majority of the association's votes are allocated, or any larger percentage stated in the declaration, must vote in favor of or agree to the assignment for it to be approved. The bill instead provides that the assignment is approved unless a majority of all unit owners, or a larger number specified in the declaration, vote to reject it. As is the case under existing law for approval of annual budgets or special assessments, the absence of a quorum at the meeting or vote does not affect approval or rejection of the assignment.

By law, the association's declaration can prohibit or limit such assignments of future income.

BACKGROUND

Common Interest Ownership Act

Generally, CIOA applies to common interest communities (e.g., condominiums) created in Connecticut on or after January 1, 1984. However, certain provisions of CIOA (including the statute that this bill amends), to the extent necessary to construe these provisions, apply to common interest communities created in Connecticut before January 1, 1984, but only with respect to events and circumstances that occur after that date. Common interest communities created before then can amend their governing instruments to conform to portions of CIOA that do not automatically apply (CGS §§ 47-214, -216, -218).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 41 Nay 1 (04/02/2012)